

TITLE 14. Fish and Game Commission Notice of Proposed Changes in Regulations

**(Continuation of California Notice Register 2010, No. 8-Z,
and Meetings of February 4, March 3, April 8, and April 21, 2010.)**

NOTE: The Fish and Game Commission is exercising its powers under Section 202 of the Fish and Game Code as the following changes to the proposed regulations may not be available to the public for the full public comment period prior to adoption. See the text of this notice—changes are shown in **bold** type.)

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202, 205, 215, 220, 240, 315 and 316.5 of the Fish and Game Code and to implement, interpret or make specific sections 200, 202, 205, 206, 215 and 316.5 of said Code, proposes to amend Section 7.50, Title 14, California Code of Regulations, relating to Central Valley salmon sport fishing.

Updated Informative Digest/Policy Statement Overview

The Pacific Fishery Management Council (PFMC) will develop the annual Pacific coast ocean salmon fisheries regulatory options for public review at their March 11, 2010 meeting and develop the final PFMC regulatory recommendations to the National Marine Fisheries Service at their April 15, 2010 meeting. The PFMC coordinates Pacific coast management of the sport and commercial salmon fisheries of Washington, Oregon, California, and Idaho aimed at meeting biological and fishery allocation goals specified in law or established in the Salmon Fishery Management Plan.

Although there are no PFMC regulatory options to review at this time, there exists a strong possibility closure of ocean waters off California. This closure will result in PFMC recommendations for sport salmon fishery closure in inland waters due to low 2009 Sacramento River Fall Chinook salmon returns to the Central Valley river system.

Further Commission actions affecting the Central Valley salmon sport fishery may be developed after the annual PFMC reports, *Review of 2009 Ocean Salmon Fisheries* and *Preseason Report I Stock Abundance Analysis for 2010 Ocean Salmon Fisheries*, are available in late February 2010.

Present Regulations

The current regulations allow for no salmon fishing for Chinook salmon in all anadromous Central Valley rivers and streams except for a one salmon bag limit in the Sacramento River from Red Bluff Diversion Dam to Knights Landing from November 16 through December 31.

Proposed Regulations

For public notice purposes and to facilitate Commission discussion, the Department is proposing the following three options for the 2010 regulations:

Option 1 - No change option, to keep present regulations in place

Option 2 - No salmon fishing in all anadromous Central Valley rivers and streams

This option proposes to close all anadromous areas of the Central Valley to salmon sport fishing with the following changes:

- 1) In subsection 7.50(b)(156)(J), replace the one salmon bag limit in Sacramento River from Red Bluff Diversion Dam to Knights Landing from November 1 through December 31 with language that states "Closed to salmon fishing" and "No take or possession of salmon".

This option would increase protection for all Central Valley Chinook stocks in all anadromous Central Valley rivers and streams.

Additional minor changes to the regulations are proposed to improve clarity, reduce public confusion, and simplify Title 14 structure.

On April 15, 2010, the Pacific Fishery Management Council (PFMC) recommended an 8,200 Sacramento River Fall Chinook (SRFC) harvest guideline for the Central Valley river salmon fisheries.

Because the PFMC adopted the final federal recommendations that allows 2010 recreational ocean salmon and Central Valley river fisheries at its April 15th decision hearing, Options 1 and 2 are no longer viable and are removed from the regulatory text.

The Department recommends a modified Option 3 to allow a limited season in the American, Feather and Sacramento rivers to achieve the PFMC harvest target of 8,200 SRFC and continue to allow a Central Valley Late-Fall Chinook fishery that reduces Sacramento River Winter Chinook (SRWC) impacts from the 2008 and 2009 fisheries.

These changes are being proposed to offer limit fishing opportunities throughout the upper Central Valley while reducing SRFC and SRWC impacts.

Option 3 is proposed to be modified from the ISOR regulatory language as follows:

American River, subsection 7.50(b)(5)

- 1) No change for subsections (A) through (C) from existing regulations.
- 2) Revise subsection (D) [from the southwest boundary of Ancil Hoffman Park to the mouth]:
 - a. Proposed to remain closed to salmon fishing with existing trout and steelhead limits from January 1 to October 29 and November 29 to December 31.
 - b. Proposed to open to salmon fishing with a bag limit of 2 Chinook salmon with existing trout and steelhead bag limits from October 30 to November 28.

These proposed changes will achieve a harvest target of 1,000 SRFC while keeping the upper river closure for spawning intact.

Feather River, subsection 7.50(b)(68)

- 1) No change for subsections (A) through (B) from existing regulations.
- 2) Revise proposed subsection (C) [from Highway 70 bridge to Sunset Pumps]:
 - a. Change lower boundary to 1,000 feet below the Thermalito Afterbay Outfall.
 - b. No further changes from existing regulations.
- 3) Revise new subsection (D) [from Sunset pumps to the mouth]:
 - a. Change upper boundary to 1,000 feet below the Thermalito Afterbay Outfall.
 - b. Proposed to remain closed to salmon fishing with existing trout and steelhead

limits from January 1 to July 30 and August 30 to December 31.

- c. Proposed to open to salmon fishing with a bag limit of 2 Chinook salmon with existing trout and steelhead bag limits from July 31 to August 29.

These proposed changes will achieve a harvest target of 1,000 SRFC while opening the maximum length of lower river section.

Sacramento River, subsection 7.50(b)(156)

- 1) No change for subsections (A) through (D), (F) through (G), and (I) from existing regulations.
- 2) The originally proposed change to subsection (E) remains the same.
- 3) Revise subsection (H) [from Deschutes Road bridge to Red Bluff Diversion Dam]:
 - a. Proposed to remain closed to salmon fishing with existing trout and steelhead limits from January 1 to October 8 and November 1 to December 31.
 - b. Proposed to open to salmon fishing with a bag limit of 2 Chinook salmon with existing trout and steelhead bag limits from October 9 to October 31.
- 4) Revise subsection (J) [from Sycamore Boat Ramp to Highway 113 bridge]:
 - a. Proposed to remain closed to salmon fishing with existing trout and steelhead limits from January 1 to October 8 and December 13 to December 31.
 - b. Proposed to open to salmon fishing with a bag limit of 2 Chinook salmon with existing trout and steelhead bag limits from October 9 to December 12.
- 5) Revise subsection (K) [from Highway 113 bridge to Carquinez bridge]:
 - a. Proposed to remain closed to salmon fishing with existing trout and steelhead limits from January 1 to September 3 and October 4 to December 31.
 - b. Proposed to open to salmon fishing with a bag limit of 2 Chinook salmon with existing trout and steelhead bag limits from September 4 to October 3.

The proposed changes for subsection (H) and (J) will achieve a harvest target of 2,600 SRFC while reducing SRWC impacts after December 1, 2010.

The proposed changes for subsection (K) will achieve a harvest target of 3,600 SRFC while offering a limited fishing season for lower river anglers.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the **Stockton Rod and Gun Club, 3120 Monte Diablo Avenue, Stockton, California**, on **Wednesday, May 5, 2010**, at **8:30 a.m.**, or as soon thereafter as the matter may be heard. Written comments may be submitted at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@fgc.ca.gov. Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on **May 4, 2010**. All comments must be received no later than **May 5, 2010**, at the hearing in **Stockton, CA**. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John Carlson, Jr., Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to John Carlson, Jr., or Sherrie Fonbuena at the preceding address or phone number. **Mr. Neil Manji, Branch Chief, Fisheries Branch, Department of Fish and Game, phone (916) 327-8840, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory

language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from agency program staff.

Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed changes are necessary for the continued preservation of the resource and therefore the prevention of adverse economic impacts.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.

- (c) Cost Impacts on a Representative Private Person or Business:

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

- (e) Nondiscretionary Costs/Savings to Local Agencies: None.

- (f) Programs Mandated on Local Agencies or School Districts: None.

- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None.
- (h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

FISH AND GAME COMMISSION

Date: April 27, 2010

John Carlson, Jr.
Executive Director